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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 002817

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SUBJECT: HUMAN RIGHTS MINISTER VISITS RULE OF LAW COMPLEX

REF: BAGHDAD 2360

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Classified By: POLITICAL COUNSELOR MATT TUELLER FOR REASONS 1.4 (B) AND (D).

¶1. (C) SUMMARY: Minister of Human Rights (MOHR) Wijdan Salim stressed on August 13 that the jurisdiction of judges at the Rule of Law Complex (ROLC) in Baghdad's Rusafa district should be expanded to include processing of all detainees held onsite at the Rusafa detention center to prevent indefinite detentions. During her tour of the ROLC, Minister Wijdan met with detainees, Chief Judge Monem Mohammed Torach (the Chief Judge overseeing trials at the onsite courthouse), Ministry of Justice (MOJ) Iraqi Corrections Service (ICS) Director General Juma'a, Deputy Prosecutor Sa'ad Alwan Abdulla, Law and Order Task Force (LAOTF) Director Michael Walther, and LAOTF Chief of Staff Charles Abner. (Note: Vice Presidents Tareq al-Hashimi and Adel Abdul Mehdi also visited the ROLC on August 15. End note.) She welcomed LAOTF Director Walther's offer to provide an office for the Ministry of Human Rights' (MOHR) staff at the ROLC and facilitate her viewing of a trial. END SUMMARY.

DETAINEES DEMAND DUE PROCESS

¶2. (C) During her August 13 tour of the ROLC, Human Rights Minister Wijdan Salim visited two sections of the MOJ's Rusafa detention center and discussed with some of the approximately 5,000 detainees the status of their cases and treatment during detention. (Note: The capacity of Rusafa will be expanded to 7,000 soon. End note.) From within the 40 cells in Rusafa 5, which is the section of Rusafa designated for newly-arrived detainees, detainees (held in groups of up to 15 within each cell) complained to the Minister that they had not had their cases reviewed by an investigative judge and lacked access to defense attorneys. While some detainees alleged they were abused at detention sites where they were held previously, detainees did not allege abuse at Rusafa itself.

¶3. (C) At Rusafa 8, consisting of temporary, air-conditioned detention units holding 25 to 30 detainees each, Minister Wijdan recognized some of the 773 detainees transferred from other detention facilities she had inspected. One of the detainees whom the Minister had met at Ministry of Defense's (MoD) 3rd Brigade, Sixth Division detention facility alleged to her that some investigative judges responding to detainees queries regarding their trial dates have told them "Inshallah" (God-willing).

¶4. (C) The detainees at both sections of Rusafa prison

complained to Minister Wijdan in front of MOJ ICS Director General Juma'a and LAOTF Director Walther, who accompanied her. Some expressed frustration that they had lodged the same complaints to Interior Minister Jawad Bolani and other Iraqi officials when they had visited Rusafa in prior weeks; however, they had not seen progress on their cases. (Note: Since opening in May, the ROLC has conducted judicial review of 2270 individual cases, released 360 detainees, and has held 77 trials. On July 10, Minister Bolani, Higher Juridical Council President and Chief Justice of the Federal Supreme Court Medhat al-Mahmoud, Finance Minister Bayan Jabr, Acting Justice Minister Safa al Safi, Deputy National Security Advisor Safa, and Baghdad Operations Command Commander Lieutenant General Abud Kanbar toured the ROLC in conjunction with a Letter of Agreement (LOA) signing ceremony that committed the GOI to spend 48 million USD to fund ROLC expenses through December 31 (reftel). End note.)

DETAINEE PROCESSING AND TRACKING

¶ 15. (C) Noting that under the Iraqi Code of Criminal Procedure it is not permissible to hold detainees beyond six months for investigation, Minister Wijdan stressed to ROLC Chief Judge Monem the importance of moving forward with judicial processing of all detainees at Rusafa. She asked Chief Judge Monem several times, "You have six months between the investigation and the trial, so what happens if there is no trial?" (Note: The six month rule does not apply to cases that potentially carry the death penalty. End note.)

¶ 16. (C) Chief Judge Monem said that his court currently had jurisdiction over approximately 2,100 detainees held at the ROLC, after having recently begun taking cases from Fallujah, Mahmoudiya, and Diyala. He noted that there were 27 new judicial teams being formed to increase judicial review

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capacity. Eighteen of the teams will review cases from the Kharkh side of Baghdad (west of the Tigris riverbank), while nine of the teams will review cases from the Rusafa side of Baghdad (east of the Tigris riverbank). Minister Wijdan argued that the jurisdiction of judges at the ROLC needed to be expanded to include all detainees held onsite at the Rusafa detention center -- regardless of where their cases originated -- to prevent indefinite detentions. LAOTF Chief of Staff Abner, commenting on the possibility of expanding the ROLC's jurisdiction, explained to the Minister that Chief Justice Medhat must approve expanding the venue of the ROLC to apply to all detainees held at Rusafa.

¶ 17. (C) In a separate conversation with the Minister, LAOTF Director Walther noted that Chief Judge Monem has agreed to organize the records of all detainees held at Rusafa such that detainees with no records are released, and the oldest cases are moved to the front of the line for review. (Note: To review a detainee's case, Chief Judge Monem needs jurisdictional authority over a case, as well as access to the case file. LAOTF officials estimate that 80 percent of the detainees at the ROLC do not have case files located onsite. Many case files are still located at other detention facilities and there are detainees without case files. End note.)

¶ 18. (C) Deputy Prosecutor Sa'ad showed the Minister an MOJ database with the names and detainee numbers of all the detainees at Rusafa. Sa'ad pulled up the records of detainees whose names the Minister recorded during her walk through Rusafa.

TRIALS AND EVIDENCE COLLECTION

¶ 19. (C) Minister asked to view a trial at the ROLC. She told

Chief Judge Monem and Deputy Prosecutor Sa'ad that every day her ministry receives letters complaining of a lack of judges and trials, and she needed to know how to respond. She stated her belief that it is "a disaster" that anyone can be arrested based on verbal accusations of terrorism by another person. Chief Judge Monem told the Minister that there is a procedure in which investigative judges write to police stations to ask if detainees have confessed to them.

¶10. (C) Minister Wijdan responded that witness statements should be backed up with more evidence and detainees should have access to a defense attorney before their trials. Detainees, she asserted, will be scared to speak freely with investigative judges if police officers who threatened them are present during questioning. The minister also discussed with LAOTF Director Walther the problem of police officers not being trained to write reports that can be used to build detainee case files.

FUTURE MOHR AND ROLC COORDINATION

¶11. (C) LAOTF Director Walther agreed to the Minister's request to open a Human Rights Ministry office within the ROLC to improve coordination between the ministry and the ROLC. LAOTF Chief of Staff Abner told the Minister he would be honored to have her return to the ROLC to view a trial. He also informed the Minister that the ROLC is an open court that has security arrangements to allow anyone to attend a trial, and all trials are video-taped.

¶12. (C) Minister Wijdan told PolOff that she considered her visit to Rusafa to be "a very good trip," and in a separate conversation on August 18, the Minister said she wanted to follow up with LAOTF Director Walther on opening the MOHR office at the ROLC.

COMMENT

¶13. (C) Minister Wijdan, while critical of the pace and scope of detainee processing at the ROLC, also demonstrated high interest in collaborating with officials at the ROLC to bring about the improvements she advocated during her visit.

¶14. (C) Expanding the ROLC court's jurisdiction to cover all detainees at Rusafa and transferring their respective case files from other detention facilities would enable onsite judicial review for the entire detainee population. The ROLC's judicial review capacity must also be increased to account for the thousands of additional cases that broadened

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jurisdiction would add to the ROLC court's docket. (Note: Chief Justice Medhat told LAOTF Director Walther that he would bring ten more judges to the ROLC -- in addition to the thirteen judges currently residing in secure apartments at the ROLC -- as soon as there is living space onsite for them. End note.) Post and MNF-I will continue to work with the Iraqi government to strengthen the ROLC's capacity and coordinate with ROLC officials to help establish a Human Rights Ministry presence at the complex. END COMMENT.
CROCKER